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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,736	10/29/2003	Eugene Joseph Pancheri	9400	7726

27752 7590 12/01/2004

THE PROCTER & GAMBLE COMPANY
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EXAMINER	
O MALLEY, KATHRYN S	

ART UNIT	PAPER NUMBER
3749	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/697,736	PANCHERI	
	Examiner	Art Unit	
	Kathryn S. O'Malley	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 September 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 9/9/04 have been fully considered but they are not persuasive.

2. Applicant argues that Staub et al. "does not teach or suggest heating the durable press resin," thereby rendering the rejection under 35 U.S.C. 102(b) inappropriate. Examiner respectfully disagrees and again points Applicant's attention to column 7, lines 24-30 in Staub et al. where heating the durable press resin is taught.

3. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Examiner agrees that Roberts does not teach heating a fabric composition in combination with a dryer. However, Staub et al. does teach this combination and it is light of both references that the rejection has been made.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 11, 13-16, 18, 21, 22, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,980,583 to Staub et al.

3. Staub et al. teaches a removable fabric treatment device and method of its use comprising nozzle 52 in the door 18 of rotating drum 14 in communication with container 60, which houses a wrinkle releaser to be sprayed onto fabric inside the drum 14 through nozzle 52 while drum 14 rotates. The apparatus further has heat sensors for providing cues to the user and means for heating the fabric treatment composition. Note column 5, lines 1-63; column 7, lines 24-30; and Figure 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 5-10, 19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staub et al. as applied to claim 11 above, and further in view of US Patent 4,242,377 to Roberts et al.

6. Staub et al. does not teach the details of heating the treatment composition. Roberts et al. teaches forming and heating a fabric treatment composition by an in-situ reaction. Note column 10, lines 9-21. As Roberts et al. teaches that an in-situ reaction will result in a highly effective, heated treatment composition, it would have been obvious to one of ordinary skill in the art to use the in-situ reaction of Roberts et al. to

perform the heating taught by Staub et al. Regarding claims 6 and 19, such claim limitations would have been obvious since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Regarding claims 7-10, such claim limitations would have been obvious to one of ordinary skill in the art since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Staub et al. as applied to claim 11 above, and further in view of US Patent 4,891,890 to Church.

8. Staub et al. does not teach the fabric treatment device having its own power source. Church teaches a similar fabric treatment device comprising its own power source. Note column 3, lines 9-22 and Figure 1. As Church teaches that a treatment device having its own power source can operate completely independently of the laundry dryer, it would have been obvious to one of ordinary skill in the art to modify the treatment device of Staub et al. with the power source of Church.

9. Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staub et al. as applied to claim 11 above, and further in view of Horton.

10. Staub et al. does not teach the details of heating the treatment composition. Horton teaches heating a fabric treatment composition with a heating coil. Note column 2, lines 49-52. As Horton teaches that using a heating coil to heat a fabric treatment composition will result in a highly effective treatment composition, it would have been

obvious to one of ordinary skill in the art to use the heating coil of Horton to perform the heating taught by Staub et al.

11. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Staub et al. as applied to claim 22 above, and further in view of Furgal et al.

12. Staub et al. does not teach instructions for use. Furgal et al. teaches a similar fabric treatment apparatus comprising instructions. Note column 4, lines 37-44. As Furgal et al. teaches that instructions will enable a user to effectively use a fabric treatment device, it would have been obvious to one of ordinary skill in the art to modify the fabric treatment apparatus of Staub et al. with the instructions of Furgal et al.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn S. O'Malley whose telephone number is (703)308-2844. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KSO

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